



*Chris Pattillo, Chair
Jim Moore, Vice Chair
Jahaziel Bonilla
Michael Coleman
Jahmese Myres
Adhi Nagraj
Emily Weinstein*

**November 5, 2014
Regular Meeting**

ROLL CALL

Present: Pattillo, Moore, Coleman, Myres, Nagraj,
Weinstein.

Excused: Bonilla.

Staff: Robert Merkamp, Aubrey Rose, Catherine Payne,
Heather Lee, Cheryl Dunaway.

WELCOME BY THE CHAIR

Agenda Discussion

Item #4 has been removed from this agenda and will be continued to the next Planning Commission Meeting agenda on November 19, 2014.

CONSENT CALENDAR

Item #1 moved on consent of the Planning Commission.

Commissioner Coleman made a motion to approve, seconded by Vice Chair Moore.

Action on the matter: Approved 6 ayes, 0 noes.

For further information on any case listed on this agenda, please contact the case planner indicated for that item. For further information on Historic Status, please contact the Oakland Cultural Heritage Survey at 510-238-6879. For other questions or general information on the Oakland City Planning Commission, please contact the Community and Economic Development Agency, Planning and Zoning Division, at 510-238-3941.

♿ This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter, or assistive listening device, please call the ***Planning Department at 510-238-3941 or TDD 510-238-3254*** at least three working days before the meeting. Please refrain from wearing scented products to this meeting so attendees who may experience chemical sensitivities may attend. Thank you.



1. **Location:** 0 Joaquin Miller Road (located in the Public Right of Way adjacent to 2772 Butters Drive) (APN: 029 -1162-012-00)
Installation of a wireless telecommunication facility on a new 45' wood pole; two panel Kathrein 3' antennas mounted at approximately at 35'-10" pole height; and associated equipment box (6' tall by 18" wide); one battery backup, and one meter box attached to the new pole, at a height of between 7' to 9' above ground located in public right of way.
Proposal: Yergovich & Associates, LLC / Matthew Yergovich
Contact Person/ Phone Number: Matthew Yergovich (415) 596-3474
Owner: New Cingular Wireless PCS, LLC (d/b/a AT&T Mobility)
Case File Number: PLN14048
Planning Permits Required: Major Regular Design Review to install a wireless Telecommunication Facility on a new pole located in public right of away within the open space zone.
General Plan: Hillside Residential
Zoning: OS (RCA) Open Space Zone
Environmental Determination: Exempt, Section 15301 of the State CEQA Guidelines; alterations to existing facilities; 15183 Projects consistent with the General Plan or Zoning.
Historic Status: Not A Potential Designated Historic Property (PDHP); Survey rating:
Service Delivery District: IV
City Council District: 4
Date Filed: 3/11/14
Finality of Decision: Appealable to City Council within 10 days
For Further Information: Contact case planner **Jose M. Herrera-Preza** at (510) 238-3808 or jherrera@oaklandnet.com

Commissioner Coleman made a motion to approve, seconded by Vice Chair Moore.

Action on the matter: Approved 6 ayes, 0 noes.



PUBLIC HEARINGS

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| 2. | Location: | 4721-4723 Tidewater Avenue, Suite C (APN: 034 -2300-020-00) |
| | Proposal: | To allow for a beer club sales business operated weekdays with a 4pm closing time to establish in a 3,500 square-foot warehouse space. The business would primarily operate by drop-shipments with minimal retail sales on site. (Project would require ABC license type 20) |
| | Applicant / | Claude Burns / Noble Brewer Beer Company |
| | Phone Number: | (301) 536-1934 |
| | Owner: | The Eggen Family Trust |
| | Case File Number: | PLN14276 |
| | Planning Permits Required: | Major Conditional Use Permit with additional findings for Alcoholic Beverage Sales Commercial Activity; Variance for alcohol sales in an over-concentrated area & within 1,000 feet of civic uses (park); Findings for Public Convenience or Necessity |
| | General Plan: | Estuary Plan: Planned Waterfront District 3 |
| | Zoning: | D-CE-5 Central Estuary District Zone |
| | Environmental Determination: | Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operation); Section 15183: Projects Consistent with a Community Plan, General Plan or Zoning |
| | Historic Status: | NA |
| | Service Delivery District: | 5 |
| | City Council District: | 5 |
| | Date Filed: | September 10, 2014 |
| | Action to be Taken: | Decision based on staff report |
| | Finality of Decision: | Appealable to City Council within 10 days |
| | For Further Information: | Contact case planner Aubrey Rose AICP, Planner II at (510) 238-2071 or arose@oaklandnet.com |

Staff Member Aubrey Rose gave a presentation.

Commissioner Weinstein asked what type of business is being proposed, who are their clients and what type of clientele will shop there on a weekly basis.

Applicant: Claude Burns stated as far as the amount of patrons, they ship quarterly and doesn't expect a lot of foot traffic over 50 patrons quarterly since they mostly ship merchandise out.

Commissioner Coleman asked if the applicants own the shipping containers located in the rear of the proposed site location.

Mr. Burns stated that the containers doesn't belong to them, it belongs to the various trucking businesses located in the same industrial park.

Commissioner Coleman asked if there's a driveway that travels down the rear of this building.

Mr. Burns responded, yes.

Commissioner Coleman made a motion to approve, seconded by Commissioner Myres.

Action on the matter: Approved 6 ayes, 0 noes.



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| 3. | Location: | Brooklyn Basin (formerly “Oak Street to Ninth Avenue”); specifically, Phase I; generally located south of Embarcadero, between future Main Street and 9th Avenue. |
| | Proposal: | Final Development Permit (FDP) for streets, landscaping and infrastructure not part of development parcels or parks in Phase I; Transportation Demand Management Program (TDM); Revision to Preliminary Development Permit (PD) |
| | Applicant: | Zarsion-OHP 1, LLC (ZOHP), Eric Harrison (510)251-9280 |
| | Owner: | ZOHP, Port of Oakland, City of Oakland |
| | Case File No: | DA06011, PUD06010-PUDF01 |
| | Planning Permits Required: | FDP; Revision to PDP; compliance with CEQA. |
| | General Plan: | Planned Waterfront Development-4. |
| | Zoning: | Planned Waterfront Zoning District (PWD-4) |
| | Environmental Determination: | Final EIR certified on January 20, 2009. |
| | Historic Status: | None for affected sites. |
| | Service Delivery District: | 3 |
| | City Council District: | 2 – Patricia Kernighan |
| | Action to be Taken: | Consider FDP and PDP application and make CEQA determination; TDM recommendation to Council |
| | Finality of Decision: | FDP and PDP appealable to City Council; TDM recommendation not appealable. |
| | For further information: | Contact case planner Catherine Payne at 510-238-6168 or by e-mail at cpayne@oaklandnet.com |

Staff Member Catherine Payne gave a presentation.

Chair Pattillo asked why isn't the Planning Commission reviewing the park, and what is the timing on the process.

Ms. Payne responded stating that the park will follow the streets and infrastructure FBP before them tonight. The Park is expected to be brought before the Planning Commission in the first quarter of 2015.

Chair Pattillo asked if either parks is included in Phase I

Ms. Payne responded only one, Shoreline Park.

Speaker: Nathan Landou.

Planning Commissioner Questions, Comments and Concerns:

Commissioner Coleman asked to please explain the advantage of decreasing the setback.

Patrick Vanness with ZOHP explained that the original guidelines and PDP had a minimum setback of 8 feet, which was an oversight in detail. A minimum of 8 feet means it will be a planned area sidewalk and every building will be setback 8 feet in a row. Setting the minimum at 8 feet is difficult for staff to recommend a developer to vary. This may cause resistance from the developer due to the impacts of the development area.

Mr. Vanness further added that there is language in the staff report on page 12 that set a minimum variance and outlined the design guideline changes, which they support.



Ms. Payne responded stating that the PDP establishes massing volumes for each parcel. Staff believes that overall, the massing is generally unaffected except, at the ground floor level.

Commissioner Weinstein asked what are the general minimum setbacks for master plan developments in Oakland.

Ms. Payne explained that there are varied setbacks throughout Oakland. In the PUDs there's flexibility to relax standards such as setbacks. Other areas, depending on the density may have a 0 setback.

Commissioner Coleman stated that he didn't see plans for AC Transit services, but on sheet L5 it shows one bus stop shelter.

Mr. Vanness responded stating that they're planning to have bus stops on the site. They are currently working with AC Transit and the City of Oakland concerning the free Broadway Shuttle in hopes it will accommodate the site. The TDM plan is flexible where if the free Broadway Shuttle is discontinued and AC Transit can no longer provide the services desired, a shuttle system can be implemented to accommodate the site and utilize the bus stops.

Vice Chair Moore is concerned about the connectivity from Brooklyn Basin to 5th Avenue crossing underneath the freeway. There are no buses or shuttles that travel to the Lake Merritt Bay Area Rapid Transit (BART) station.

Mr. Vanness explained, the minimum shuttle required for the TDM Plan will travel to the Lake Merritt Bay Area Rapid Transit (BART) station and downtown. Alternates to the free Broadway Shuttle and AC Transit buses will travel through Jack London Square. If the free Broadway Shuttle and AC Transit buses are utilized, they may look into relocating bus routes traveling through Jack London Square.

Commissioner Weinstein asked if the final development plans for the vertical phases will be brought back to the Planning Commission. If the Planning Commission wants to ensure there was articulation in the buildings, will they have the ability to comment on it?

Ms. Payne responded affirmatively.

Commissioner Weinstein stated that the Fire Department's requirement to have the street width at 26 feet goes against the "complete streets" framework. If this development plans to be LEED Neighborhood Development, there will be many issues around making sure it fits into that framework. The Planning Commission should be very aware of this.

Mr. Merkamp responded stating that they've been working with Fire Department staff for a while now. There is no resolution at this time, the conversation should continue because staff are also concerned as well.

Chair Pattillo asked if the requirements to protect the remaining portion of the 9th Avenue terminal been completed.

Ms. Payne responded that when the final development permit application for Shoreline Park is brought before the Planning Commission, this will address the 9th Avenue terminal.



Commissioner Weinstein made a motion to approve, including revision number 1 with staff's recommendations, seconded by Commissioner Coleman.

Action on the matter: Approved 6 ayes, 0 noes.

PLEASE NOTE: ITEM NO: 4 BELOW, HAS BEEN REMOVED FROM THIS AGENDA AND CONTINUED TO NOVEMBER 19, 2014

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| 4. | Location: | Citywide |
| | Proposal: | Recommendation to the City Council to adopt a General Plan Amendment (GPA) for the 2015-2023 Housing Element, as part of the Oakland General Plan. The City must accommodate 14,765 new housing units between 2015 and 2023 to meet its "fair share" of the region's housing need. The City can accommodate the new housing without rezoning or further GPAs, through current opportunity sites, and with projects either built, under construction, approved or in predevelopment. |
| | Applicant: | City Planning Commission |
| | Case File Number: | GP14001 |
| | Planning Permits Required: | General Plan Amendment |
| | General Plan: | All General Plan Categories |
| | Zoning: | All Zoning Categories |
| | Environmental Determination: | CEQA Addendum is prepared for the draft Housing Element, based on the certified Environmental Impact Report for the 2007-2014 Oakland Housing Element. |
| | Service Delivery District: | All |
| | City Council District: | All |
| | Status: | The Commission reviewed the draft 2015-2023 Housing Element at its May 7, 2014, public hearing. The Community and Economic Development Committee of the Oakland City Council reviewed the draft Housing Element at the June 10, 2014 public meeting. |
| | Action to be Taken: | Conduct a public hearing, receive comments from the public, discuss and recommend adoption of the 2015-2023 Housing Element to City Council. |
| | Finality of Decision: | Recommendation to City Council |
| | For Further Information: | Contact case planner Devan Reiff at (510) 238-3550, dreiff@oaklandnet.com |

COMMISSION BUSINESS

Discussion of Planning Commission Manual

Mr. Merkamp explained the purpose of this discussion and would like for the Planning Commission to provide feedback at tonight's meeting and in writing on a continuous basis.

Some of the Planning Commissioners stated they haven't had a chance to thoroughly read through the manual and wasn't aware they were expected to provide feedback at tonight's meeting. It was suggested that this be postponed to a date uncertain to give the Planning Commission more time to read through the manual or submit comments in writing.



Mr. Merkamp stated that he prefers if the Planning Commission provide as much feedback as possible at tonight's meeting with the option to submit additional feedback later.

After further discussion, the Planning Commission agreed with Mr. Merkamp's suggestion.

Commissioner Myres:

- There are several uses of the word "citizens" used throughout the manual, the word "citizens" should be changed to "residents" throughout the manual to be more inclusive to the large population of Oakland residents that don't have traditional citizenship.
- A staff and departmental organizational chart should be included in the manual.
- More description of the Planning Commission's relationship to various boards and bodies should be included in the manual.
- The description of the Special Projects Committee and Policy and Procedures Committee should be stronger to show that they too are important committees. They should also be more proactive in ways to assure they meet more often.
- The list of approved and in process Specific Plans should outline the geographic scope and the intent of each specific Plan.
- Attach a brief Robert's Rule outline for new Planning Commissioners.
- Attach a development process diagram from application to approval and a visual of what that looks like.
- The section on meeting with applicants and neighbors has a general hostile tone and should be more inclusive of meeting with applicants and other stakeholders in a positive light.

Commissioner Coleman:

- Please provide a list of acronyms that's consistently used in staff reports such as, FAR.
- He loves the manual and it's an instructive document and very well put together.
- Page 23, last paragraph didn't seem to mean anything to him and didn't make any sense.
- Page 25, "City Attorneys" has an apostrophe in it and should be removed.
- Page 26, second paragraph states, "at the decision of the Director", should read, "at the discretion of the Director".
- Page 28, "each Commissioner making their own comments", should be changed to "each Commissioner making his/her own comments".



- Page 28, third paragraph, “a motion that does not read a second from another member”, should read, “a motion that does not receive a second from another member”.
- Page 30, second sentence, “and if truth” should read, “and in truth”.
- Page 30, second to the last paragraph, “what I said above was valid”, should read, “what is said above is valid”.

Chair Pattillo:

- Page 8 in the early paragraph, there should be a succinct explanation of what’s covered by Zoning and what’s covered by the General Plan.
- Page 8, first paragraph, the word “landscape” was used and should be clarified on what exactly that means.
- Page 8, second paragraph, there was mention of a general plan in 1957. It would be helpful to name each of the elements.
- Page 8, last paragraph, it was mentioned that new zoning districts were created, but there was no mention of where they are.
- Page 9 doesn’t state when the Design Review Committee (DRC) was formed.
- Page 9, bottom under “Planning Commission” it discusses the various statutory decision making. It also states there’s quasi adjudicatory in the appeal board. After reviewing the definition of “adjudicatory” why is it quasi? Based on the definition, the adjudicatory ability is already there.

Ms. Lee explained that quasi-adjudicatory tends to refer strictly to courts on a specific decision or on an administrative permit.

Mr. Merkamp further explained that they will assist with clarifying the legal technical terms.

Chair Pattillo:

- Page 10, the acronyms “DRC” and “RAC” was used for the first time, but it wasn’t spelled out to inform readers of what they actually are.
- Page 11, second paragraph under Residential Appeals Committee (RAC). Why is it limited to one or two units?
- The Policies and Procedures Committee should convene to discuss the type of materials that should be included in their packet.
- Why isn’t the Parks and Recreation Advisory Committee (PRAC) and the Bicycle Committee listed in the manual and how they relate to the Planning Commission?
- Page 13 states that the Planning Commission has police power, please clarify.



- Page 13, bottom paragraph, please define the word “takings”.
- Page 15, “Optional General Elements”. Is the Planning Commission’s sustainability element included in that category?
- Page 16 states, “the City of Oakland is preparing for several more specific plans”. There have been at least one Corridor plan, are they considered specific plans or design guidelines?
- Page 17, number 3 under Design Guidelines states, “several design guidelines”. Please include a list of all sets of design guidelines that the City Of Oakland has.
- Please include an example of what constitute a minor Conditional Use Permit (CUP)
- Page 18, include an explanation of the impacts of granting an applicant a CUP.
- Page 19, number 8 “Development Agreements”. Please provide a definition of “vesting maps”.
- Page 19 , last line; please define “amortize billboards”.
- Page 20, please note that California Environmental Quality Act (CEQA) is similar to the National Environmental Policy Act (NEPA)
- Page 21, number 3 states, “project is a term of art under CEQA”. Please explain what that means.
- Page 22, 3rd bullet, please define these 3 options: Prepare a Negative Declaration, a mitigated Negative Declaration or a full Environmental Impact Report (EIR).
- Page 23, 4th paragraph. Please summarize the outcome of the feedback submitted by the Planning Commission.
- Page 25, please place the list of various Planning Commission rules in the manual. This will eliminate the need to place them in each Planning Commission packet.
- Page 26, number 3 explains the makeup of the staff report and key issues. Key issues should always be identified, not just sometimes.
- Page 27, states that staff encourages the Planning Commission to make site visits. Suggests that they also be allowed to use Google Street View to locate prospective project sites.
- Page 27, 4th paragraph discusses the recusal of Planning Commissioners on some occasions. Please include an explanation of the circumstances it’s appropriate for a Planning Commissioner’s recusal, other than them living within a 500 square feet radius of a proposed project.
- Page 28, it was noted that the applicant’s time limit to make a presentation is 5 minutes. This was surprising information because the applicant usually is always allowed more tthan 5 minutes to make a presentation.



- Page 29, Form 700- Conflict of Interest, it would be helpful to include a direct link to access that form and a contact name and phone number to call for questions or assistance.
- Page 29, Planning Commissioners are required to publically disclose any ex parte meetings they have and disclose the information gained at said meeting.

Commissioner Myres asked if this is a legal requirement or is it a requirement stated in the manual.

Ms. Lee responded stating that ex parte communications is on a sliding scale and depends on the facts. The more disclosure the better to show transparency, which will make for a fair process.

Chair Pattillo stated that on page 30, it explains that Planning Commissioners having ex parte meetings makes a difference when they are in an advisory role vs. being the final decision makers. A different answer was given when this question was asked at the training manual retreat. Please explain which is correct.

Ms. Lee responded stating that there may've been some confusion. There's a difference when the Planning Commission is in an advisory role. This is the distinction between a quasi-adjudicatory role where a decision on an appeal or a final decision on an application that's quasi adjudicatory in nature, that's when those biased issues come into play. An advisory conclusion as a recommendation to the City Council for a final decision doesn't require a need to be as concerned about those issues.

Commissioner Weinstein asked if there is a document that explains what's included in the staff report, because one seems different from the other. Depending on the type of project, more consistency in the staff reports is needed.

Mr. Merkamp responded stating that he will look into providing consistency in the staff reports. The staff reports are prepared by various staff members who may seek review from the City Attorneys or other departments related to the project. At the retreat, it was discussed that an overall review of the staff report itself will be done to see if there are elements that are useful or not and other information that may be necessary to include or remove.

Commissioner Myres asked if the Policy and Procedures Sub-Committee can meet to discuss guidelines on what should be included in the staff reports.

Commissioner Weinstein also asked for instructions to be included in the manual on how to convene sub-committee meetings.

Approval of Minutes

Commissioner Coleman made a motion to approve the October 1, 2014 Planning Commission minutes, seconded by Vice Chair Moore.

Action on the matter: Approved 5 ayes, 0 noes.

Commissioner Coleman made a motion to approve the October 8, 2014 Planning Commission minutes, seconded by Vice Chair Moore.

Action on the matter: Approved 4 ayes, 0 noes, 2 abstentions (Nagraj, Weinstein).



City Council Actions

Chair Pattillo asked when the Lake Merritt Station Plan Area will be brought before the City Council.

Mr. Merkamp responded stating that the Lake Merritt Station Plan Area will be brought before the City Council at a future meeting in November.

There's a City Council right now, due to the election they weren't able to meet last night. They will hear the Mendoza Drive Telecom appeal that was denied by the Planning Commission.

The City Council will also decide on the Planning code changes of the bifurcated changes of agriculture, etc.

ADJOURNMENT

Meeting adjourned at approximately 7:20 P.M.


ROBERT MERKAMP
Development Planning Manager
Planning and Zoning Division

NEXT MEETING: November 19, 2014